

Translation

PATENT COOPERATION TREATY

PCT/CH2003/000383



PCT

INTERNATIONAL PRELIMINARY EXAMINATION REPORT

(PCT Article 36 and Rule 70)

Applicant's or agent's file reference HAWA 02-02 PCT	FOR FURTHER ACTION See Notification of Transmittal of International Preliminary Examination Report (Form PCT/IPEA/416)	
International application No. PCT/CH2003/000383	International filing date (day/month/year) 13 June 2003 (13.06.2003)	Priority date (day/month/year) 05 July 2002 (05.07.2002)
International Patent Classification (IPC) or national classification and IPC E05F 15/14		
Applicant HAWA AG		

1. This international preliminary examination report has been prepared by this International Preliminary Examining Authority and is transmitted to the applicant according to Article 36.

2. This REPORT consists of a total of 5 sheets, including this cover sheet.

☒ This report is also accompanied by ANNEXES, i.e., sheets of the description, claims and/or drawings which have been amended and are the basis for this report and/or sheets containing rectifications made before this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions under the PCT).

These annexes consist of a total of 3 sheets.

3. This report contains indications relating to the following items:

- I ☒ Basis of the report
- II ☐ Priority
- III ☐ Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
- IV ☐ Lack of unity of invention
- V ☒ Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
- VI ☐ Certain documents cited
- VII ☐ Certain defects in the international application
- VIII ☐ Certain observations on the international application

Date of submission of the demand 25 October 2003 (25.10.2003)	Date of completion of this report 08 November 2004 (08.11.2004)
Name and mailing address of the IPEA/EP	Authorized officer
Facsimile No.	Telephone No.

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I. Basis of the report

1. With regard to the elements of the international application:*

- ☐ the international application as originally filed
- ☒ the description:
 pages 1-19, as originally filed
 pages _____, filed with the demand
 pages _____, filed with the letter of _____
- ☒ the claims:
 pages 14-16, as originally filed
 pages _____, as amended (together with any statement under Article 19
 pages _____, filed with the demand
 pages 1-13, filed with the letter of 30 September 2004 (30.09.2004)
- ☒ the drawings:
 pages 1/6-6/6, as originally filed
 pages _____, filed with the demand
 pages _____, filed with the letter of _____
- ☐ the sequence listing part of the description:
 pages _____, as originally filed
 pages _____, filed with the demand
 pages _____, filed with the letter of _____

2. With regard to the language, all the elements marked above were available or furnished to this Authority in the language in which the international application was filed, unless otherwise indicated under this item.

These elements were available or furnished to this Authority in the following language _____ which is:

- ☐ the language of a translation furnished for the purposes of international search (under Rule 23.1(b)).
- ☐ the language of publication of the international application (under Rule 48.3(b)).
- ☐ the language of the translation furnished for the purposes of international preliminary examination (under Rule 55.2 and/or 55.3).

3. With regard to any nucleotide and/or amino acid sequence disclosed in the international application, the international preliminary examination was carried out on the basis of the sequence listing:

- ☐ contained in the international application in written form.
- ☐ filed together with the international application in computer readable form.
- ☐ furnished subsequently to this Authority in written form.
- ☐ furnished subsequently to this Authority in computer readable form.
- ☐ The statement that the subsequently furnished written sequence listing does not go beyond the disclosure in the international application as filed has been furnished.
- ☐ The statement that the information recorded in computer readable form is identical to the written sequence listing has been furnished.

4. ☐ The amendments have resulted in the cancellation of:

- ☐ the description, pages _____
- ☐ the claims, Nos. _____
- ☐ the drawings, sheets/fig _____

5. ☐ This report has been established as if (some of) the amendments had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)).**

* Replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report since they do not contain amendments (Rule 70.16 and 70.17).

** Any replacement sheet containing such amendments must be referred to under item 1 and annexed to this report.

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V. Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1. Statement

Novelty (N)	Claims	1-13	YES
	Claims		NO
Inventive step (IS)	Claims	1-13	YES
	Claims		NO
Industrial applicability (IA)	Claims	1-13	YES
	Claims		NO

2. Citations and explanations

1. Reference is made to the following document:

D1: CH 692 052 A (DORMA TUERAUTOMATIK AG) 15 January
2002 (2002-01-15)

2. The application does not meet the requirements of PCT Article 6 because claim 1 is not clear, for the following reasons:

Although claim 1 is directed to a drive device *per se*, not only are the running mechanisms and the electric motor to be considered part of the claimed subject matter, but the runner and the partition element in the wording of claim 1 are also essential to the interaction between the various parts of the invention;

- see, *inter alia*:

"Partition element on at least two...running mechanisms...which are guided in a runner" (lines 3-5), "drive wheel...which engages in a toothed element arranged along an inner wall of the runner" (lines 10-14), "electric motor...above the running surfaces...inside the runner" (lines 15-18),

"perpendicular to the plane formed by the running surfaces" (line 20), "partition element connected to the drive device by the fixing element..." (line 27).

Claim 1 should therefore have referred to an "optionally rotatable and parkable partition element system which can be displaced in a linear and/or curved manner and has a partition element, a runner and a drive device".

3. Document D1, which is considered the closest prior art, discloses (cf. column 2, lines 1-55; figures 1, 4) an optionally rotatable and parkable partition element system which can be displaced in a linear and/or curved manner and has a partition element, a runner and a drive device as per the preamble of claim 1.

The subject matter of claim 1 differs fundamentally from that described in D1 in that the electric motor is arranged on the first running mechanism so as to be guided above the running surfaces and inside the runner, the motor shaft being aligned between the support rollers and perpendicular to the plane of the running surfaces.

The problem addressed by the invention is therefore that of adapting the drive device of the partition element system and the connection to the partition wall element of the aforementioned kind in such a way that the connecting side of the partition wall element can adjoin the runner better, whilst retaining the drive wheel/elongate toothed element gear.

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The combination of features is neither known from nor suggested by the available prior art.

The subject matter of claim 1 therefore satisfies the criteria of PCT Article 33(2) and (3).

4. The subject matter of claims 2-13 is novel and inventive because it is dependent on claim 1.